

House Bill 436

By: Representatives Lunsford of the 110<sup>th</sup>, Keen of the 179<sup>th</sup>, Golick of the 34<sup>th</sup>, O'Neal of the 146<sup>th</sup>, Smith of the 129<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Environmental Facilities Authority, so as to rename the Georgia Environmental Facilities Authority as the Georgia Environment and Infrastructure Financing Authority and provide for the powers and duties of the latter authority; to change certain provisions relating to a short title; to change certain provisions relating to legislative intent and assumption of rights, duties, and assets of the Georgia Development Authority; to change certain provisions relating to creation of the Georgia Environmental Facilities Authority, members, quorum, travel and expenses, legal services, members' accountability, recordkeeping, and authority assignment; to change certain provisions relating to definitions; to change certain provisions relating to purpose, powers, and duties of the Georgia Environmental Facilities Authority; to change certain provisions relating to loans to local governments and repayment; to change certain provisions relating to lease agreements; to change certain provisions relating to review of contracts and agreements with local governments by the Environmental Protection Division; to change certain provisions relating to a definition relative to the Division of Energy Resources; to change certain provisions relating to creation and executive director of the Division of Energy Resources; to change certain provisions relating to powers and duties of the Division of Energy Resources; to amend the Official Code of Georgia Annotated so as to make conforming changes to certain references to the former Georgia Environmental Facilities Authority; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**  
**SECTION 1-1.**

Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Environmental Facilities Authority, is amended by striking Code Section 50-23-1, relating to a short title, and inserting in lieu thereof the following:

H. B. 436

- 1 -

1 "50-23-1.

2 This article shall be known and may be cited as the 'Georgia ~~Environmental Facilities~~  
3 Environment and Infrastructure Financing Authority Act."

4 **SECTION 1-2.**

5 Said chapter is further amended by striking Code Section 50-23-2, relating to legislative  
6 intent and assumption of rights, duties, and assets of the Georgia Development Authority,  
7 and inserting in lieu thereof the following:

8 "50-23-2.

9 (a) It is found and declared that the availability of adequate ~~environmental facilities~~  
10 infrastructure is an important element in the ability of a community to provide for the  
11 continuing economic growth and development that provide jobs for the state's citizens. It  
12 is also recognized that many communities lack the financial resources to provide for the  
13 needed ~~facilities infrastructure~~ that ~~both protect~~ protects the environment, conserves land,  
14 and ~~provide~~ provides for ~~such~~ future economic expansion. Financial assistance is an  
15 important aid for ~~the local~~ governments in meeting these needs and it is declared in the  
16 public interest and for the public benefit and good and is so desired as a matter of  
17 legislative intent.

18 (b) It is the purpose and intent of this article to provide an instrumentality to assist in  
19 acquiring, constructing, extending, rehabilitating, repairing, and renewing of infrastructure,  
20 environmental facilities, and state and community land conservation projects and to assist  
21 in the financing of such needs by providing grants, loans, bonds, and other assistance to  
22 ~~local governments and instrumentalities of the state.~~

23 (c) The authority shall receive all assets of the Georgia ~~Development~~ Environmental  
24 Facilities Authority held immediately prior to the creation of the Georgia ~~Environmental~~  
25 ~~Facilities~~ Environment and Infrastructure Financing Authority ~~except those assets received~~  
26 ~~under the provisions of Public Law 499, Eighty-first Congress, Second Session, or funds~~  
27 ~~or assets derived from such funds or assets.~~ The authority shall be responsible for any  
28 contracts, leases, agreements, or other obligations entered into regarding the environmental  
29 facilities projects of the Georgia ~~Development~~ Environmental Facilities Authority prior to  
30 the creation of the Georgia ~~Environmental Facilities~~ Environment and Infrastructure  
31 Financing Authority, and the Georgia ~~Environmental Facilities~~ Environment and  
32 Infrastructure Financing Authority is substituted as party to any such contract, agreement,  
33 lease, or other obligation and shall be responsible for performance thereon as if it had been  
34 the original party and shall be entitled to all benefits and rights of enforcement by any other  
35 parties to such contracts, agreements, leases, or other obligations."

**SECTION 1-3.**

Said chapter is further amended by striking Code Section 50-23-3, relating to creation of the Georgia Environmental Facilities Authority, members, quorum, travel and expenses, legal services, members' accountability, recordkeeping, and authority assignment, and inserting in lieu thereof the following:

"50-23-3.

(a) There is created a body corporate and politic to be known as the Georgia ~~Environmental Facilities~~ Environment and Infrastructure Financing Authority which shall be deemed an instrumentality of the state and a public corporation; and by that name, style, and title such body may contract and be contracted with and bring and defend actions in all courts of this state. The authority shall consist of 11 members: the commissioner of community affairs, ex officio; the state auditor, ex officio; the commissioner of economic development, ex officio; and eight members to be appointed by the Governor. ~~Three Of such eight appointed members, three~~ members shall be municipal officials, three members shall be county officials, and two members shall be at large. Any municipal or county official shall serve only so long as such official remains in office as a municipal or county official. ~~The Governor shall appoint one municipal official, one county official, and one at-large member to serve until July 1, 1989; and shall appoint two municipal officials, two county officials, and one at-large member of the authority to serve until July 1, 1990. After the expiration of these terms, the~~ Those persons serving as appointed members of the Georgia Environmental Facilities Authority immediately prior to the effective date of this subsection shall serve out the remainder of the terms for which they were appointed but shall do so as members of the Georgia Environment and Infrastructure Financing Authority. The terms of all succeeding appointed members shall be for four years.

(b) A majority of the members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of a majority of the appointed members from exercising all rights and performing all duties of the authority. The members of the authority shall be entitled to and shall be reimbursed for their actual travel and expenses necessarily incurred in the performance of their duties and shall receive the same per diem as do members of the General Assembly. The authority shall make rules and regulations for its own government. The authority shall have perpetual existence. Any change in the name or composition of the authority shall in no way affect the vested rights of any person under this article or impair the obligations of any contracts existing under this article. The Attorney General shall provide legal services for the authority and in connection therewith Code Sections 45-15-13 through 45-15-16 shall be fully applicable.

(c) The members of the authority shall be accountable in all respects as trustees. The authority shall keep suitable books and records of all actions and transactions and shall

1 submit such books together with a statement of the authority's financial position to an  
2 independent auditing firm selected by the authority on or about the close of the state's  
3 fiscal year for the purpose of obtaining a certified audit of the authority's finances.

4 (d) The authority is assigned to the Department of Community Affairs for administrative  
5 purposes only."

#### 6 SECTION 1-4.

7 Said chapter is further amended by striking Code Section 50-23-4, relating to definitions, and  
8 inserting in lieu thereof the following:

9 "50-23-4.

10 As used in this ~~chapter~~ article, the term:

11 (1) 'Authority' means the Georgia ~~Environmental Facilities~~ Environment and  
12 Infrastructure Financing Authority.

13 (2) 'Bond' includes revenue bond, bond, note, or other obligation.

14 (2.1) 'Community land conservation project' has the meaning provided by Code Section  
15 36-22-2.

16 (2.2) 'Conservation easement' means a conservation easement established in accordance  
17 with Code Section 44-10-2.

18 (2.3) 'Conservation land' has the meaning provided by Code Section 36-22-2.

19 (3) 'Cost of project' or 'cost of any project' means:

20 (A) All costs of acquisition, by purchase or otherwise, construction, assembly,  
21 installation, modification, renovation, extension, or rehabilitation incurred in connection  
22 with any project or any part of any project;

23 (B) All costs of real property, fixtures, or personal property used in or in connection  
24 with or necessary for any project or for any facilities related thereto, including but not  
25 limited to, the cost of all land, interests in land, estates for years, easements including  
26 but not limited to conservation easements, rights, improvements, water rights, rights of  
27 way, and connections for utility services; the cost of fees, franchises, permits,  
28 approvals, licenses, and certificates; the cost of securing any such franchises, permits,  
29 approvals, licenses, or certificates; the cost of preparation of any application therefor;  
30 and the cost of all fixtures, machinery, equipment, furniture, and other property used  
31 in or in connection with or necessary for any project;

32 (C) All financing charges, bond insurance, and loan or loan guarantee fees and all  
33 interest on revenue bonds, notes, or other obligations of the authority which accrue or  
34 are paid prior to and during the period of construction of a project and during such  
35 additional period as the authority may reasonably determine to be necessary to place  
36 such project in operation;

(D) All costs of engineering including but not limited to preliminary engineering studies, surveying, planning, traffic studies, environmental assessments, financial analyses, and architectural, legal, and accounting services and all expenses incurred by engineers, surveyors, planners, environmental scientists, fiscal analysts, architects, attorneys, accountants, and any other necessary technical personnel in connection with any project;

(E) All expenses for inspection of any project;

(F) All fees of fiscal agents, paying agents, and trustees for bondholders under any bond resolution, trust agreement, indenture of trust, or similar instrument or agreement; all expenses incurred by any such fiscal agents, paying agents, and trustees; and all other costs and expenses incurred relative to the issuance of any bonds, revenue bonds, notes, or other obligations for any project, including bond insurance;

(G) All fees of any type charged by the authority in connection with any project;

(H) All expenses of or incidental to determining the feasibility or practicability of any project;

(I) All costs of plans and specifications for any project;

(J) All costs of title insurance and examinations of title with respect to any project;

(K) Repayment of any loans for the advance payment of any part of any of the foregoing costs, including interest thereon and any other expenses of such loans;

(L) Administrative expenses of the authority and such other expenses as may be necessary or incidental to any project or the financing thereof or the placing of any project in operation; and

(M) The establishment of a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve, or such other funds or reserves as the authority may approve with respect to the financing and operation of any project and as may be authorized by any bond resolution, trust agreement, indenture, or trust or similar instrument or agreement pursuant to the provisions of which the issuance of any revenue bonds, notes, or other obligations of the authority may be authorized.

Any cost, obligation, or expense incurred for any of the purposes specified in this paragraph shall be a part of the cost of the project and may be paid or reimbursed as such out of the proceeds of revenue bonds, notes, or other obligations issued by the authority.

(3.1) 'Council' means the Georgia Land Conservation Council established by Chapter 22 of Title 36.

(4) 'County' means any county created under the Constitution or laws of this state.

(5) 'Environmental facilities' means any projects, structures, and other real or personal property acquired, rehabilitated, constructed, or planned:

(A) For the purposes of supplying, distributing and treating water and diverting, channeling, or controlling water flow and head including, but not limited to, surface or ground water, canals, reservoirs, channels, basins, dams, aqueducts, standpipes, penstocks, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water meters, mechanical equipment, electric generating equipment, rights of flowage or division and other plant structures, equipment, conveyances, real or personal property or rights therein and appurtenances, furnishings, accessories, and devices thereto necessary or useful and convenient for the collection, conveyance, distribution, pumping, treatment, storing, or disposing of water;

(B) For the purposes of collecting, treating, or disposing of sewage including, but not limited to, main, trunk, intercepting, connecting, lateral, outlet, or other sewers, outfall, pumping stations, treatment and disposal plants, ground water recharge basins, backflow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, soil absorption systems, innovative systems or equipment, structures, equipment, vehicles, conveyances, real or personal property or rights therein, and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralization, storing, and disposing of sewage; and

(C) For the purposes of collecting, treating, recycling, composting, or disposing of solid waste, including, but not limited to, trucks, dumpsters, intermediate reception stations or facilities, transfer stations, incinerators, shredders, treatment plants, landfills, landfill equipment, barrels, binders, barges, alternative technologies and other plant structures, equipment, conveyances, improvements, real or personal property or rights therein, and appurtenances, furnishings, accessories, and devices thereto necessary or useful and convenient for the collection, treatment, or disposal of solid waste.

(6) 'Environmental services' means the provision, collectively or individually, of water facilities, sewerage facilities, solid waste facilities, or management services.

(6.1) 'Infrastructure' means a highway, air transport, airport, rails, or transit project which provides public benefits by enhancing mobility and safety, promoting economic development, or increasing the quality of life and general welfare of the public; mass transit systems including, but not limited to, monorail and mass transit systems; land acquisition, rail spurs, access roads, gas and electric lines, equipment or other fixed assets, infrastructure for businesses creating or retaining jobs, brownfield redevelopment on publicly owned land, site acquisition, public building and downtown redevelopment, and port projects, telecommunications equipment, including but not limited to fiber optic

1 or any type of cabling which provides access to the Internet, energy improvements in  
2 public and private construction and buildings including but not limited to educational  
3 facilities, fuel storage systems, public works equipment, and other economic development  
4 purposes for local development; and any improvements necessary to the full utilization  
5 thereof, including site preparation, roads and streets, sidewalks, water supply, outdoor  
6 lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for  
7 railroad, automotive, and air transportation, transportation facilities incidental to the  
8 project, and the dredging and improving of harbors and waterways, none of which  
9 foregoing descriptive words shall be construed to constitute a limitation.

10 (7) 'Local government' or 'local governing authority' means any municipal corporation  
11 or county or any local water or sewer or sanitary district and any state or local authority,  
12 board, or political subdivision created by the General Assembly or pursuant to the  
13 Constitution and laws of the state.

14 (8) 'Management services' means technical, administrative, instructional, or  
15 informational services provided to any current or potential loan recipient in, but not  
16 limited to, the areas of service charge structure; accounting, capital improvements  
17 budgeting or financing; financial reporting, treasury management, debt structure or  
18 administration or related fields of financial management; contract or grant administration;  
19 management of water, sewer, or solid waste systems; and economic development  
20 administration or strategies. Management services may be furnished either directly,  
21 on-site, or through other written or oral means of communication and may consist of  
22 reports, studies, presentations, or other analyses of a written or oral nature.

23 (9) 'May' means permission and not command.

24 (10) 'Municipal corporation' or 'municipality' means any city or town in this state.

25 (11) 'Obligation' means any bond, revenue bond, note, lease, contract, evidence of  
26 indebtedness, debt, or other obligation of the authority, the state, or local governments  
27 which are authorized to be issued under this ~~chapter~~ article or under the Constitution or  
28 other laws of this state, including refunding bonds.

29 (12) 'Project' means the acquisition, construction, installation, modification, renovation,  
30 repair, extension, renewal, replacement, or rehabilitation of land, interest in land,  
31 buildings, structures, facilities, or other improvements and the acquisition, installation,  
32 modification, renovation, repair, extension, renewal, replacement, rehabilitation, or  
33 furnishing of fixtures, machinery, equipment, furniture, or other property of any nature  
34 whatsoever used on, in, or in connection with any such land, interest in land, building,  
35 structure, facility, or other improvement, all for the essential public purpose of providing  
36 infrastructure, environmental facilities, and environmental services to meet public health  
37 and environmental standards and to aid the development of trade, commerce, industry,

1 agriculture, and employment opportunities, or projects authorized by the Georgia  
 2 Regional Transportation Authority created by Chapter 32 of this title as defined in such  
 3 chapter, where the authority has been directed to issue revenue bonds, bonds, notes, or  
 4 other obligations to finance such project or the cost of a project in whole or in part,  
 5 provided that the authority's power with respect to such projects authorized by the  
 6 Georgia Regional Transportation Authority shall be limited to providing such financing  
 7 and related matters as authorized by the Georgia Regional Transportation Authority. The  
 8 term 'project' shall also include state land conservation projects and community land  
 9 conservations projects.

10 (13) 'Revenue bond' includes bond, note, or other obligation.

11 (14) 'Self-liquidating project' means any project or combination of projects if, in the  
 12 judgment of the authority, the revenues, rents, or earnings to be derived by the authority  
 13 therefrom will be sufficient to pay the cost of maintaining, repairing, and operating the  
 14 project and to pay the principal and interest of revenue bonds which may be issued for  
 15 the cost of such project, projects, or combination of projects.

16 (15) 'Sewerage facility' means any environmental facility described in subparagraph (B)  
 17 of paragraph (5) of this Code section, defining 'environmental facilities.'

18 (15.5) 'Solid waste facility' means any environmental facility described in subparagraph  
 19 (C) of paragraph (5) of this Code section, defining 'environmental facilities.'

20 (15.6) 'State land conservation project' has the meaning provided by Code Section  
 21 36-22-2.

22 (16) 'Water facility' means any environmental facility described in subparagraph (A) of  
 23 paragraph (5) of this Code section, defining 'environmental facilities.'"

## 24 SECTION 1-5.

25 Said chapter is further amended by striking Code Section 50-23-5, relating to purpose,  
 26 powers, and duties of the Georgia Environmental Facilities Authority, and inserting in lieu  
 27 thereof the following:

28 "50-23-5.

29 (a) The corporate purpose and the general nature of the business of the Georgia  
 30 ~~Environmental Facilities~~ Environment and Infrastructure Financing Authority shall be  
 31 assistance in acquiring, constructing, extending, rehabilitating, repairing, replacing, and  
 32 renewing infrastructure, environmental facilities, state land conservation projects, and  
 33 community land conservation projects necessary for public purposes and commercial,  
 34 residential, and industrial development purposes or necessary or incidental to such purposes  
 35 by providing grants, loans, bonds, and other forms of financial and technical assistance to



1 local governments and instrumentalities of the state to finance any project or pay the cost  
2 of any project.

3 (b) The authority shall have power:

4 (1) To sue and be sued in all courts of this state, the original jurisdiction and venue of  
5 such actions being the Superior Court of Fulton County;

6 (2) To have a seal and alter the same at its pleasure;

7 (3) To make and execute contracts, lease agreements, and all other instruments necessary  
8 or convenient to exercise the powers of the authority or to further the public purpose for  
9 which the authority is created, such contracts, leases, or instruments to include contracts  
10 for construction, operation, management, or maintenance of projects and facilities owned  
11 by local government, the authority, or by the state or any state authority; and any and all  
12 local governments, departments, institutions, authorities, or agencies of the state are  
13 authorized to enter into contracts, leases, agreements, or other instruments with the  
14 authority upon such terms and to transfer real and personal property to the authority for  
15 such consideration and for such purposes as they deem advisable;

16 (4) To acquire by purchase, lease, or otherwise and to hold, lease, pledge, and dispose  
17 of real or personal property of every kind and character, or any interest therein, in  
18 furtherance of the public purpose of the authority;

19 (5) To appoint an executive director who shall be executive officer and administrative  
20 head of the authority. The executive director shall be appointed and serve at the pleasure  
21 of the authority. The executive director shall hire officers, agents, and employees,  
22 prescribe their duties and qualifications and fix their compensation, and perform such  
23 other duties as may be prescribed by the authority. Such officers, agents, and employees  
24 shall serve at the pleasure of the executive director;

25 (6) To finance projects by loan, loan guarantee, grant, lease, or otherwise, and to pay the  
26 cost of any project from the proceeds of bonds, revenue bonds, notes, or other obligations  
27 of the authority or any other funds of the authority or from any contributions or loans by  
28 persons, corporations, partnerships, whether limited or general, or other entities, all of  
29 which the authority is authorized to receive, accept, and use;

30 (7) To make loans, through the acquisition of bonds, revenue bonds, notes, portfolio loan  
31 sales, or leveraging of other financing arrangements or other obligations, and to make  
32 grants to local governments to finance projects and to pay the cost of any project by local  
33 government and to adopt rules, regulations, and procedures for making such loans and  
34 grants;

35 (8) To borrow money to further or carry out its public purpose and to issue revenue  
36 bonds, notes, or other obligations to evidence such loans and to execute leases, trust  
37 indentures, trust agreements for the sale of its revenue bonds, notes, or other obligations,

1 loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements,  
2 assignments, and such other agreements or instruments as may be necessary or desirable  
3 in the judgment of the authority, and to evidence and to provide security for such loans;

4 (9) To issue revenue bonds, bonds, notes, or other obligations of the authority, to receive  
5 payments from the Department of Community Affairs, and to use the proceeds thereof  
6 for the purpose of:

7 (A) Paying or loaning the proceeds thereof to pay, all or any part of, the cost of any  
8 project or the principal of and premium, if any, and interest on the revenue bonds,  
9 bonds, notes, or other obligations of any local government issued for the purpose of  
10 paying in whole or in part, the cost of any project and having a final maturity not  
11 exceeding three years from the date of original issuance thereof;

12 (B) Paying all costs of the authority incidental to, or necessary and appropriate to,  
13 furthering or carrying out the purposes of the authority; and

14 (C) Paying all costs of the authority incurred in connection with the issuance of the  
15 revenue bonds, bonds, notes, or other obligations;

16 (10) To collect fees and charges in connection with its loans, commitments, management  
17 services, and servicing including, but not limited to, reimbursements of costs of  
18 financing, as the authority shall determine to be reasonable and as shall be approved by  
19 the authority;

20 (11) Subject to any agreement with bondholders, to invest moneys of the authority not  
21 required for immediate use to carry out the purposes of this ~~chapter~~ article, including the  
22 proceeds from the sale of any bonds and any moneys held in reserve funds, in obligations  
23 which shall be limited to the following:

24 (A) Bonds or other obligations of the state or bonds or other obligations, the principal  
25 and interest of which are guaranteed by the state;

26 (B) Bonds or other obligations of the United States or of subsidiary corporations of the  
27 United States government fully guaranteed by such government;

28 (C) Obligations of agencies of the United States government and its subsidiary  
29 corporations and instrumentalities or entities sanctioned or authorized by the United  
30 States government including, but not limited to, the Federal Land Bank, the Federal  
31 Home Loan Bank, the Federal Intermediate Credit Bank, Farm Credit Banks regulated  
32 by the Farm Credit Administration, the Federal Home Loan Mortgage Corporation, the  
33 Federal National Mortgage Association, and the Bank for Cooperatives;

34 (D) Bonds or other obligations issued by any public housing agency or municipality  
35 in the United States, which bonds or obligations are fully secured as to the payment of  
36 both principal and interest by a pledge of annual contributions under an annual  
37 contributions contract or contracts with the United States government, or project notes

1 issued by any public housing agency, urban renewal agency, or municipality in the  
2 United States and fully secured as to payment of both principal and interest by a  
3 requisition, loan, or payment agreement with the United States government;

4 (E) Certificates of deposit of national or state banks or federal savings and loan  
5 associations located within the state which have deposits insured by the Federal Deposit  
6 Insurance Corporation or any Georgia deposit insurance corporation and certificates of  
7 deposit of state building and loan associations located within the state which have  
8 deposits insured by any Georgia deposit insurance corporation, including the  
9 certificates of deposit of any bank, savings and loan association, or building and loan  
10 association acting as depository, custodian, or trustee for any such bond proceeds;  
11 provided, however, that the portion of such certificates of deposit in excess of the  
12 amount insured by the Federal Deposit Insurance Corporation or any Georgia deposit  
13 insurance corporation, if any such excess exists, shall be secured by deposit with the  
14 Federal Reserve Bank of Atlanta, Georgia, or with any national or state bank located  
15 within the state, of one or more of the following securities in an aggregate principal  
16 amount equal at least to the amount of such excess:

17 (i) Direct and general obligations of the state or of any county or municipality in the  
18 state;

19 (ii) Obligations of the United States or subsidiary corporations included in  
20 subparagraph (B) of this paragraph;

21 (iii) Obligations of agencies of the United States government included in  
22 subparagraph (C) of this paragraph; or

23 (iv) Bonds, obligations, or project notes of public housing agencies, urban renewal  
24 agencies, or municipalities included in subparagraph (D) of this paragraph;

25 (F) Interest-bearing time deposits, repurchase agreements, reverse repurchase  
26 agreements, rate guarantee agreements, or other similar banking arrangements with a  
27 bank or trust company having capital and surplus aggregating at least \$50 million or  
28 with any government bond dealer reporting to, trading with, and recognized as a  
29 primary dealer by the Federal Reserve Bank of New York having capital aggregating  
30 at least \$50 million or with any corporation which is subject to registration with the  
31 Board of Governors of the Federal Reserve System pursuant to the requirements of the  
32 Bank Holding Company Act of 1956, provided that each such interest-bearing time  
33 deposit, repurchase agreement, reverse repurchase agreement, rate guarantee agreement,  
34 or other similar banking arrangement shall permit the moneys so placed to be available  
35 for use at the time provided with respect to the investment or reinvestment of such  
36 moneys;

37 (G) Prime bankers' acceptances; and

1 (H) State operated investment pools:-

2 (12) To acquire or contract to acquire from any person, firm, corporation, local  
3 government, federal or state agency, or corporation by grant, purchase, or otherwise,  
4 leaseholds, real or personal property, or any interest therein; and to sell, assign, exchange,  
5 transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same; and  
6 local government is authorized to grant, sell, or otherwise alienate leaseholds, real and  
7 personal property, or any interest therein to the authority;

8 (13) To invest any moneys held in debt service funds or sinking funds not restricted as  
9 to investment by the Constitution or laws of this state or the federal government or by  
10 contract not required for immediate use or disbursement in obligations of the types  
11 specified in paragraph (11) of this subsection, provided that, for the purposes of this  
12 paragraph, the amounts and maturities of such obligations shall be based upon and  
13 correlated to the debt service, which debt service shall be the principal installments and  
14 interest payments, schedule for which such moneys are to be applied;

15 (14) To provide advisory, technical, consultative, training, educational, and project  
16 assistance services to the state and local government and to enter into contracts with the  
17 state and local government to provide such services. The state and local governments are  
18 authorized to enter into contracts with the authority for such services and to pay for such  
19 services as may be provided them;

20 (15) To make loan commitments and loans to local government and to enter into option  
21 arrangements with local government for the purchase of said bonds, revenue bonds, notes,  
22 or other obligations;

23 (16) To sell or pledge any bonds, revenue bonds, notes, or other obligations acquired by  
24 it whenever it is determined by the authority that the sale thereof is desirable;

25 (17) To apply for and to accept any gifts or grants or loan guarantees or loans of funds  
26 or property or financial or other aid in any form from the federal government or any  
27 agency or instrumentality thereof, or from the state or any agency or instrumentality  
28 thereof, or from any other source for any or all of the purposes specified in this ~~chapter~~  
29 article and to comply, subject to the provisions of this ~~chapter~~ article, with the terms and  
30 conditions thereof;

31 (18) To lease to local governments any authority owned facilities or property or any state  
32 owned facilities or property which the authority is managing under contract with the state;

33 (19) To contract with state agencies or any local government for the use by the authority  
34 of any property or facilities or services of the state or any such state agency or local  
35 government or for the use by any state agency or local government of any facilities or  
36 services of the authority and such state agencies and local governments are authorized to  
37 enter into such contracts;

1 (20) To extend credit or make loans, including the acquisition of bonds, revenue bonds,  
2 notes, or other obligations to the state, any local government, or other entity, including  
3 the federal government, for the cost or expense of any project or any part of the cost or  
4 expense of any project, which credit or loans may be evidenced or secured by trust  
5 indentures, loan agreements, notes, mortgages, deeds to secure debt, trust deeds, security  
6 agreements, or assignments, on such terms and conditions as the authority shall determine  
7 to be reasonable in connection with such extension of credit or loans, including provision  
8 for the establishment and maintenance of reserve funds; and, in the exercise of powers  
9 granted by this ~~chapter~~ article in connection with any project, the authority shall have the  
10 right and power to require the inclusion in any such trust indentures, loan agreement,  
11 note, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other  
12 instrument such provisions or requirements for guaranty of any obligations, insurance,  
13 construction, use, operation, maintenance, and financing of a project and such other terms  
14 and conditions as the authority may deem necessary or desirable;

15 (21) As security for repayment of any bonds, revenue bonds, notes, or other obligations  
16 of the authority, to pledge, lease, mortgage, convey, assign, hypothecate, or otherwise  
17 encumber any property of the authority including, but not limited to, real property,  
18 fixtures, personal property, and revenues or other funds and to execute any lease, trust  
19 indenture, trust agreement, agreement for the sale of the authority's revenue bonds, notes  
20 or other obligations, loan agreement, mortgage, deed to secure debt, trust deed, security  
21 agreement, assignment, or other agreement or instrument as may be necessary or  
22 desirable, in the judgment of the authority, to secure any such revenue bonds, notes, or  
23 other obligations, which instruments or agreements may provide for foreclosure or forced  
24 sale of any property of the authority upon default in any obligation of the authority, either  
25 in payment of principal, premium, if any, or interest or in the performance of any term  
26 or condition contained in any such agreement or instrument;

27 (22) To receive and use the proceeds of any tax levied by a local government to pay all  
28 or any part of the cost of any project or for any other purpose for which the authority may  
29 use its own funds pursuant to this ~~chapter~~ article;

30 (23) To use income earned on any investment for such corporate purposes of the  
31 authority as the authority in its discretion shall determine, including, but not limited to,  
32 the use of repaid principal and earnings on funds, the ultimate source of which was an  
33 appropriation to a budget unit of the state to make loans for solid waste projects;

34 (24) To cooperate and act in conjunction with industrial, commercial, medical, scientific,  
35 public interest, or educational organizations; with agencies of the federal government and  
36 this state and local government; with other states and their political subdivisions; and with  
37 joint agencies thereof and such state agencies, local government, and joint agencies are

1 authorized and empowered to cooperate and act in conjunction, and to enter into contracts  
2 or agreements with the authority and local government to achieve or further the policies  
3 of the state declared in this ~~chapter~~ article;

4 (25) To adopt bylaws governing the conduct of business by the authority, the election  
5 and duties of officers of the authority, and other matters which the authority determines  
6 to deal with in its bylaws;

7 (26) To exercise any power granted by the laws of this state to public or private  
8 corporations which is not in conflict with the public purpose of the authority;

9 (27) To do all things necessary or convenient to carry out the powers conferred by this  
10 ~~chapter~~ article;

11 (28) To designate three or more of its number to constitute an executive committee who,  
12 to the extent provided in such resolution or in the bylaws of the authority, shall have and  
13 may exercise the powers of the authority in the management of the affairs and property  
14 of the authority and the exercise of its powers;

15 (29) To procure insurance against any loss in connection with its property and other  
16 assets or obligations or to establish cash reserves to enable it to act as self-insurer against  
17 any and all such losses;

18 (30) To administer funds granted to the state by the administrator of the federal  
19 Environmental Protection Agency pursuant to Title VI of the Federal Water Pollution  
20 Control Act and Title XIV of the federal Safe Drinking Water Act, as now or hereafter  
21 amended, for the purpose of providing assistance to municipalities or counties or any  
22 combination thereof or to any public authority or, if authorized by law, any private  
23 agency, commission, or institution for construction of treatment works as that term is  
24 defined in Section 212 of the federal Clean Water Act of 1977, P.L. 95-217, which are  
25 publicly owned. The authority is further authorized to administer funds granted to the  
26 state by the administrator of the federal Environmental Protection Agency pursuant to  
27 Title XIV of the federal Safe Drinking Water Act, as now or hereafter amended, for the  
28 purpose of providing assistance to municipalities or counties or any combination thereof  
29 or any public or, if authorized by law, any private authority, agency, commission, or  
30 institution for the construction of public drinking water works as such term is defined in  
31 Section 1401 of the federal Safe Drinking Water Act Amendments of 1986, P.L. 99-339.  
32 The authority is further authorized to administer funds granted to the state by the  
33 administrator of the federal Environmental Protection Agency pursuant to 33 U.S.C.A.  
34 Section 1381, et seq., for the purpose of providing financial assistance for any eligible  
35 water pollution control project. The authority shall deposit any such funds received from  
36 the administrator of the federal Environmental Protection Agency into a separate water  
37 pollution control revolving fund or a drinking water revolving fund transferred to the

1 authority from the Environmental Protection Division of the Department of Natural  
2 Resources or hereafter established. The forms and administration of such funds shall be  
3 established by the authority in accordance with federal requirements;

4 (31) To contract with the director of the Environmental Protection Division of the  
5 Department of Natural Resources for the implementation and operation, in whole or in  
6 part, of any drought protection program; ~~and~~

7 (31.1) To administer the Georgia Land Conservation Trust Fund in accordance with  
8 Chapter 22 of Title 36;

9 (31.2) To administer the Georgia Land Conservation Revolving Loan Fund in  
10 accordance with Chapter 22 of Title 36;

11 (31.3) To audit, or provide for auditing, the use of moneys from the Georgia Land  
12 Conservation Fund and the Georgia Land Conservation Revolving Fund or the use of  
13 properties obtained in whole or in part by the use of such moneys;

14 (31.4) To engage in fund raising or other promotional techniques on behalf of the council  
15 as deemed appropriate by the authority;

16 (31.5) To establish and promulgate regulations governing the development and submittal  
17 of proposals for state land conservation projects and community land conservation  
18 projects;

19 (31.6) To review state and community land conservation projects and make  
20 recommendations as provided by Chapter 22 of Title 36;

21 (31.7) To receive and administer funds granted to the state or the authority for providing  
22 assistance to municipalities or counties or any combination thereof or to any public  
23 authority or, if otherwise authorized by law, any private agency, commission, or  
24 institution for the construction of infrastructure projects; and

25 (32) To lend any of the securities of the type described in this subsection.

26 (c) The authority shall not have the power of eminent domain.

27 (d) The authority shall have all of the powers, authority, rights, and obligations necessary  
28 to operate as and, if necessary for the receipt of funds from any source, to be considered  
29 a state infrastructure bank."

#### 30 SECTION 1-6.

31 Said chapter is further amended by striking Code Section 50-23-6, relating to loans to local  
32 governments and repayment, and inserting in lieu thereof the following:

33 "50-23-6.

34 (a) The authority may make grants as provided for in Chapter 22 of Title 36 or as  
35 otherwise provided by law.

1 (b) The authority may make loans to a local government to pay all or any part of the cost  
2 of a project. The authority may require the local government to issue bonds or revenue  
3 bonds as evidence of such loans. The authority and a local government may enter into such  
4 loan commitments and option agreements as may be determined appropriate by the  
5 authority.

6 ~~(b)~~(c) The authority may require as a condition of any loan to a local government that such  
7 local government shall perform any or all of the following:

8 (1) ~~In the case of loans for a sewerage facility~~ If otherwise permitted by law, establish  
9 and collect ~~sewer~~ rents, rates, fees, and charges so as to produce revenues sufficient to  
10 pay all or a specified portion of:

11 (A) Costs of operation, maintenance, replacement, renewal, and repairs; and

12 (B) Outstanding indebtedness incurred for the purposes of such ~~sewerage facility~~  
13 project, including the principal of and interest on the bonds, revenue bonds, notes, or  
14 other obligations issued by the local government, as the same shall become due and  
15 payable, and to create and maintain any required reserves;

16 ~~(2) In the case of loans for a water facility, establish and collect rents, rates, fees, and~~  
17 ~~charges so as to produce revenues sufficient to pay all or a specified portion of:~~

18 ~~(A) Costs of operation, maintenance, renewal, replacement, and repairs of the water~~  
19 ~~facility of such local government; and~~

20 ~~(B) Outstanding indebtedness incurred for the purposes of such water facility,~~  
21 ~~including the principal of and interest on the bonds, revenue bonds, notes, or other~~  
22 ~~obligations issued by the local government, as the same shall become due and payable,~~  
23 ~~and to create and maintain any required reserves;~~

24 ~~(3) In the case of loans for a solid waste facility, establish and collect rents, rates, fees,~~  
25 ~~and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

26 ~~(A) Costs of operation, maintenance, renewal, replacement, and repairs of the solid~~  
27 ~~waste facility of such local government; and~~

28 ~~(B) Outstanding indebtedness incurred for the purposes of such solid waste facility,~~  
29 ~~including the principal of and interest on the bonds, revenue bonds, notes, or other~~  
30 ~~obligations issued by the local government, as the same shall become due and payable,~~  
31 ~~and to create and maintain any required reserves;~~

32 ~~(4)~~(2) Create and maintain a special fund or funds, as additional security for the payment  
33 of the principal of such revenue bonds and the interest thereon and any other amounts  
34 becoming due under any agreement, entered into in connection therewith and for the  
35 deposit therein of such revenues as shall be sufficient to make such payment as the same  
36 shall become due and payable;



~~(5)~~(3) Create and maintain such other special funds as may be required by the authority;  
and

~~(6)~~(4) Perform such other acts, including the conveyance of real and personal property together with all right, title, or interest therein to the authority, or take other actions as may be deemed necessary or desirable by the authority to secure the payment of the principal of and interest on such bonds, revenue bonds, notes, or other obligations and to provide for the remedies of the authority in the event of any default by such local government in such payment.

~~(c)~~(d) All local governments issuing and selling bonds, revenue bonds, notes, or other obligations to the authority are authorized to perform such acts, take such action, adopt such proceedings, and to make and carry out such contracts with the authority as may be contemplated by this article.

~~(d)~~(e) In connection with the making of any loan authorized by this article, the authority may fix and collect such fees and charges including, but not limited to, reimbursement of all costs of financing by the authority, as the authority shall determine to be reasonable. Neither the Public Service Commission nor any local government or state agency shall have jurisdiction over the authority's power over the regulation of such fees or charges.

(f) A mutual undertaking by a local government to borrow and an undertaking by the authority to lend funds from and to one another for a project shall be a provision for services and an activity within the meaning of Article IX, Section III, Paragraph I(a) of the Constitution of the State of Georgia."

## SECTION 1-7.

Said chapter is further amended by striking Code Section 50-23-7, relating to lease agreements, and inserting in lieu thereof the following:

"50-23-7.

(a) For the purposes of this article, the term 'lease agreement' shall mean and include a lease, operating lease rental agreement, usufruct, sale and lease back, or any other lease agreement having a term of not more than 50 years and concerning real, personal, or mixed property, any right, title, or interest therein by and between the state, the authority, a local government, or any combination thereof.

(b) A local government by resolution of its governing body may enter into a lease agreement for the provision of ~~environmental~~ services utilizing ~~facilities~~ projects owned by the authority upon such terms and conditions as the authority shall determine to be reasonable including, but not limited to, the reimbursement of all costs of construction and financing and claims arising therefrom.

(c) No lease agreement shall be deemed to be a contract subject to any law requiring that contract shall be let only after receipt of competitive bids.

(d) Any lease agreement may provide for the construction of such ~~environmental facility~~ project by the local government as agent for the authority. In such event, all contracts for such construction shall be let by such local government in accordance with the provisions of law otherwise applicable to the letting of such contracts by such local government and with the provisions of state law pertaining to prevailing wages, labor standards, and working hours. Any such lease agreement may contain provisions by which such local government shall indemnify the authority against any and all damages resulting from acts or omissions to act on the part of such local government or its officers, agents, or employees in constructing such facility or facilities, in letting any contracts in connection therewith, or in operating and maintaining the same.

(e) Any lease agreement executed by the authority directly with any local government may provide at the termination thereof that title to the ~~environmental facility~~ project shall vest in the local government or its successor in interest, if any, free and clear of any liens or encumbrances created in connection with any contract or bonds, revenue bonds, notes, or other obligations involving the authority.

(f) Any lease agreement directly between the state or authority and a local government may contain provisions requiring the local government to perform any or all of the following:

(1) ~~In the case of a sewerage facility~~ If otherwise permitted by law, to establish and collect ~~sewer~~ rents, rates, fees, and charges so as to produce revenues sufficient to pay all or a specified portion of:

(A) The costs of operation, maintenance, renewal, replacement, and repairs of the ~~sewerage facility~~ project of such local government; and

(B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the purposes of such ~~sewerage facility~~ project and to provide for the payment of all amounts as they shall become due and payable under the terms of such lease agreement, including amounts for the creation and maintenance of any required reserves;

(2) ~~In the case of a water facility, to establish and collect rents, rates, fees, and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

~~(A) The costs of operation, maintenance, renewal, and repairs of the water facility of such local government; and~~

~~(B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the purposes of such water facility and to provide for the payment of all amounts as they shall become due and payable under the terms of such lease agreement, including amounts for the creation and maintenance of any required reserves;~~

~~(3) In the case of a solid waste facility, to establish and collect rents, rates, fees, and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

~~(A) The costs of operation, maintenance, renewal, and repairs of the water facility of such local government; and~~

~~(B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the purposes of such solid waste facility and to provide for the payment of all amounts as they shall become due and payable under the terms of such lease agreement, including amounts for the creation and maintenance of any required reserves;~~

~~(4)~~(2) To create and maintain reasonable reserves or other special funds;

~~(5)~~(3) To create and maintain a special fund or funds as additional security for the punctual payment of any rentals due under such lease agreement and for the deposit therein of such revenues as shall be sufficient to pay said lease rentals and any other amounts becoming due under such lease agreements as the same shall become due and payable; or

~~(6)~~(4) To perform such other acts and take such other action as may be deemed necessary and desirable by the authority to secure the complete and punctual performance by such local government of such lease agreements and to provide for the remedies of the authority in the event of a default by such local government in such payment."

#### SECTION 1-8.

Said chapter is further amended by striking Code Section 50-23-9, relating to review of contracts and agreements with local governments by the Environmental Protection Division, and inserting in lieu thereof the following:

"50-23-9.

(a) The authority shall not enter into any contract or agreement with any local government with respect to the financing of any environmental facility pursuant to this article, unless the director of the Environmental Protection Division of the Department of Natural Resources shall have completed all existing statutory reviews and approvals with respect to such project. Nothing in this article shall be construed to diminish the full authority and responsibility of the director of the Environmental Protection Division for existing statutory reviews and approvals.

(b) The authority shall not enter into any contract or agreement with any local government with respect to the financing, by loan or grant, of any state land conservation project or community land conservation project, unless the council has approved the state land conservation project or community land conservation project and the chairperson of the council has directed the authority to execute the approval decision of the council. Nothing

1 in this article shall be construed to diminish the full authority and responsibility of the  
2 council's existing statutory reviews and approvals."

3 **SECTION 1-9.**

4 Said chapter is further amended by striking Code Section 50-23-30, relating to a definition  
5 relative to the Division of Energy Resources, and inserting in lieu thereof the following:

6 "50-23-30.

7 As used in this article, the term 'division' shall mean the Division of Energy Resources of  
8 the Georgia ~~Environmental Facilities~~ Environment and Infrastructure Financing Authority."

9 **SECTION 1-10.**

10 Said chapter is further amended by striking Code Section 50-23-31, relating to creation and  
11 executive director of the Division of Energy Resources, and inserting in lieu thereof the  
12 following:

13 "50-23-31.

14 There is created within the Georgia ~~Environmental Facilities~~ Environment and  
15 Infrastructure Financing Authority a Division of Energy Resources. The executive director  
16 of the authority or an employee of the authority designated by the director shall serve as  
17 the director of the division and shall have full authority over the operation, personnel, and  
18 facilities of the division."

19 **SECTION 1-11.**

20 Said chapter is further amended by striking Code Section 50-23-32, relating to powers and  
21 duties of the Division of Energy Resources, and inserting in lieu thereof the following:

22 "50-23-32.

23 (a) The Division of Energy Resources of the Georgia ~~Environmental Facilities~~  
24 Environment and Infrastructure Financing Authority shall have sole authority and  
25 responsibility for the administration of this article.

26 (b) The division shall have the authority and responsibility to do the following:

27 (1) Consult with other departments, agencies, or officials of this state or political  
28 subdivisions thereof and appropriate private and professional organizations in matters  
29 related to energy. Any other department, educational institution, agency, or official of this  
30 state or political subdivision thereof which in any way would affect the administration  
31 or enforcement of this article is required to coordinate all such activities with the division  
32 to assure orderly and efficient administration and enforcement of this article;

- 1 (2) Do all things necessary to cooperate with the United States government and qualify  
2 for, accept, and disburse any public or private grant intended for the administration of this  
3 article;
- 4 (3) Apply for, receive, accept, and administer federal funds and programs made available  
5 to the state for the purposes of this article;
- 6 (4) Contract for services if such services cannot be satisfactorily performed by  
7 employees of the division or by any other state agency;
- 8 (5) Enter into agreements to carry out energy related research and planning jointly with  
9 other states or the federal government where appropriate;
- 10 (6) Inform, educate, and provide materials to other agencies of the state or political  
11 subdivisions thereof and to the public on all energy related matters, with particular  
12 emphasis on energy consumption trends and their social, environmental, and economic  
13 impacts; conservation and energy efficiency; and alternative energy technologies;
- 14 (7) Monitor and assess the relationship and impact of international, federal, and regional  
15 energy policies on the state's energy policies and programs;
- 16 (8) Collect and analyze data relating to past, present, and future consumption levels for  
17 all sources of energy and report such findings to the Governor annually. Such reports  
18 shall make recommendations on actions which would further the purposes of energy  
19 conservation and management;
- 20 (9) Prepare and present to the government for approval a standby emergency plan setting  
21 forth actions to be taken in the event of an impending serious shortage of energy or a  
22 threat to public health, safety, or welfare;
- 23 (10) Design and implement a program to encourage energy conservation and efficiency,  
24 to include, but not be limited to, public, commercial, industrial, governmental, and  
25 residential areas;
- 26 (11) Maintain awareness of all energy related research, with particular emphasis on  
27 alternative energy resources creating minimal environmental impact, which research  
28 could be of importance to the state's welfare for the purposes of providing constructive  
29 and supportive action;
- 30 (12) Solicit funds made available for the purposes of information, research studies,  
31 demonstrations, and projects of professional and civic orientation which are related to  
32 energy conservation and efficiency, the development and utilization of alternative energy  
33 technologies, and other appropriate energy related areas; and
- 34 (13) Design and implement programs to assist local governing authorities and other  
35 entities in implementing alternative energy projects."

**PART II****SECTION 2-1.**

The Official Code of Georgia Annotated is amended by striking the term "Georgia Environmental Facilities Authority" and inserting the term "Georgia Environment and Infrastructure Financing Authority" in lieu thereof wherever the former term appears in each of the following Code sections:

(1) Code Section 8-2-3, relating to requirements for toilets, shower heads, and faucets;

(2) Code Section 8-2-23, relating to amendment and revision of state minimum standard codes generally;

(3) Code Section 12-5-38.1, relating to administration of funds granted to the state by the federal Environmental Protection Agency and water pollution control and drinking water revolving funds;

(4) Code Section 12-5-472, relating to acquisition, construction, and maintenance of certain projects by the Department of Natural Resources, standards and procedures, and agreement with local government having affected property;

(5) Code Section 12-5-524, relating to creation of a Water Council and its obligations;

(6) Code Section 12-5-542, relating to definitions relative to Flint River drought protection;

(7) Code Section 12-5-580, relating to coordinating committees and finance committees relative to the Metropolitan North Georgia Water Planning District;

(8) Code Section 12-8-23.1, relating to powers and duties of the director relative to solid waste management;

(9) Code Section 12-8-31, relating to a state solid waste management plan;

(10) Code Section 46-4A-2, relating to legislative findings and declarations of policy relative to provision of energy conservation assistance to residential customers by electric and gas utilities;

(11) Code Section 46-4A-12, relating to construction of provisions relative to provision of energy conservation assistance to residential customers by electric and gas utilities;

(12) Code Section 46-4A-14, relating to civil penalties and removal of contractors, suppliers, or lenders from master record;

(13) Code Section 50-8-8, relating to grants, loans, and other disbursements of funds and a state community development program relative to the Department of Community Affairs;

(14) Code Section 50-8-13, relating to authorities and agencies assigned to Department of Community Affairs for administrative purposes;

(15) Code Section 50-8-193, relating to state agencies encouraged to give certified projects priority in licensing and processing grants and loans and authorization for sale of alcoholic beverages;

(16) Code Section 50-10-5, relating to powers and duties of the Georgia Development Authority;

(17) Code Section 50-17-27, relating to application and investment of public debt proceeds by the Georgia State Financing and Investment Commission and by the Georgia Environmental Facilities Authority;

(18) Code Section 50-32-15, relating to issuance of bonds by the Georgia Regional Transportation Authority;

(19) Code Section 50-32-39, relating to limitation on indebtedness by or on behalf of the Georgia Regional Transportation Authority; and

(20) Code Section 50-35-3, relating to the board of directors of the Georgia Environmental Training and Education Authority and their compensation and reimbursement.

### **PART III**

#### **SECTION 3-1.**

All laws and parts of laws in conflict with this Act are repealed.